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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL ESTRADA,

Defendant and Appellant.

F063956

(Super. Ct. No. BF136295A)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. John S. Somers, Judge.

Deborah Prucha, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Wiseman, Acting P.J., Cornell, J., and Poochigian, J.

Appellant, Daniel Estrada, pled no contest to possession of methamphetamine (Health & Saf. Code, § 11377) and vandalism (Pen. Code, § 594, subd. (b)(1)) and was placed on probation. On September 23, 2011, Estrada admitted violating his probation. Following independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), we affirm.

FACTUAL AND PROCEDURAL HISTORY

On April 4, 2011, Kern County sheriff's deputies responded to a call of a man holding a knife at a house belonging to Estrada's mother, found Estrada holding a knife, and took him into custody. After being informed that Estrada attempted to burn down the house, the deputies went inside and encountered a strong odor of gasoline. They also found burn marks in the house, an empty five-gallon can of gasoline, couch cushions that were soaked in gasoline, and holes in some walls and bedroom doors. During a search of Estrada, deputies found a pipe with a white crystalline substance that was later determined to be .48 grams of methamphetamine.

On April 6, 2011, the district attorney filed a complaint charging Estrada with arson (count 1/Pen. Code, § 451, subd. (b)), possession of methamphetamine (count 2), possession of drug paraphernalia (count 3/Health & Saf. Code, § 11364), and being under the influence of a controlled substance (count 4/Health & Saf. Code, § 11550, subd. (a)).

On April 19, 2011, after the prosecutor amended the complaint to include a count of vandalism (count 5), Estrada pled no contest to possession of methamphetamine and vandalism in exchange for the dismissal of the remaining counts, a grant of felony probation for five years, and a maximum local term of one year, followed by up to one year in a residential drug treatment program.

On July 27, 2011, the court suspended imposition of sentence and placed Estrada on probation for three years on certain conditions, including that he serve 99 days in local

custody with credit for 99 days served, and that he enroll and successfully complete an in-patient drug/alcohol program approved by the probation department.

On September 22, 2011, the probation officer filed an affidavit alleging that Estrada violated the terms of his probation by failing to successfully complete an in-patient drug and alcohol rehabilitation program and by using methamphetamine.

On September 23, 2011, after Estrada admitted violating his probation, the court revoked and then reinstated his probation on the condition he serve an additional 180 days in local custody, although after serving 90 days, Estrada could be released to a residential drug treatment program approved by the probation department.

Estrada's appellate counsel has filed a brief which summarizes the facts, with citations to the record, raises no issues, and asks this court to independently review the record. (*Wende, supra*, 25 Cal.3d 436.) Estrada has not responded to this court's invitation to submit additional briefing. However, our review of the record disclosed that the minute order of Estrada's September 23, 2011, probation violation hearing does not accurately memorialize the proceedings that took place during this hearing. For example, the minute order erroneously states that defense counsel waived a "formal advisal of probation violation grounds and advisal of constitutional rights," that he entered a denial of the alleged probation violation on Estrada's behalf, and that the court ordered Estrada to serve up to an additional year in custody. Since the oral pronouncement of judgment controls (*People v. Farell* (2002) 28 Cal.4th 381, 384, fn. 2), we will direct the trial court to issue an amended minute order for this hearing that is consistent with the court's oral pronouncement of judgment.

Further, following an independent review of the record we find that, with the exception of the error noted above, no reasonably arguable factual or legal issues exist.

DISPOSITION

The trial court is directed to prepare an amended minute order for the September 23, 2011, hearing that accurately memorializes the proceedings of that date, including that the court ordered Estrada to serve up to an additional 180 days in local custody. In all other respects the judgment is affirmed.